

1

2

3

UNITED STATES DISTRICT COURT

4

Northern District of California

5

6

DEUTSCHE BANK NATIONAL TRUST,

No. C 11-4640 MEJ

7

Plaintiff,

ORDER TO SHOW CAUSE

8

v.

9

ROBERT S. CHAPPELL,

Defendant.

10 _____ /

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

On September 20, 2011, Defendant Robert S. Chappell removed this unlawful detainer action from Contra Costa County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant Robert Chappell to show cause why this case should not be remanded to the Contra Costa County Superior Court. Defendant shall file a declaration by October 6, 2011, and the Court shall conduct a hearing on October 20, 2011 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In his declaration, Defendant must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim. Defendant should be mindful that an anticipated federal defense is not sufficient to confer jurisdiction. *Franchise Tax Bd. of California v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983).

IT IS SO ORDERED.

29

30

Dated: September 22, 2011



Maria-Elena James
Chief United States Magistrate Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DEUTSCHE BANK NATIONAL TRUST,

Case Number: 11-4640 MEJ

V.

Plaintiff,

CERTIFICATE OF SERVICE

ROBERT S. CHAPPELL,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 22, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert Chappell
4640 La Vista Drive
Oakley, CA 94561

Dated: September 22, 2011

Richard W. Wiekling, Clerk
By: Brenda Tolbert, Deputy Clerk